

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

Lakesha Smith)
Plaintiff,)
v.) Case No. 4:17-cv-00116-WTM-GRS
St. Joseph's/Candler Health System, Inc.)
Defendant.)

)

Motion to Dismiss or, Alternatively, for Summary Judgment

Now comes Defendant St. Joseph's/Candler Health System, Inc. ("St. Joseph's") and files this motion to dismiss or, alternatively, for summary judgment. The motion is supported by:

- The accompanying memorandum of law;
- The complaint (Dkt. 1) and amended complaint (Dkt. 5) previously filed in this case;
- St. Joseph's Local Rule 56.1 Statement; and
- The Declaration of Stacey Brown.

In support of the motion, St. Joseph's argues that Plaintiff Smith's amended complaint fails to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). The amended complaint demonstrates that the statute of limitations has already run on her claims. Also, the amended complaint demonstrates that Smith received her full twelve weeks of leave under the Family and Medical Leave Act (FMLA), 29 U.S.C.

§ 2601 *et seq.* Her employment ended when she was unable to return to work after exhausting all her FMLA leave. On these facts, Smith has not stated a claim for relief.

In case there is any doubt, the Court may convert this motion to one for summary judgment and then consider the attached Local Rule 56.1 Statement and Declaration of Stacey Brown. Those documents confirm that Smith received her full twelve weeks of leave under the Family Medical Leave Act, and her employment ended only when she was unable to return to work after exhausting all her FMLA leave. On these undisputed facts, summary judgment should be granted to St. Joseph's.

For these reasons, St. Joseph's respectfully requests that the Court dismiss the amended complaint or, alternatively, grant summary judgment to St. Joseph's.

October 23, 2017

Respectfully submitted,

MORRIS, MANNING & MARTIN, LLP
Attorneys for St. Joseph's/Candler Health System, Inc.

s/ R. Jason D'Cruz
R. Jason D'Cruz
Georgia Bar No. 004740
Anthony C. DeCinque
Georgia Bar No. 130906

1600 Atlanta Financial Center
3343 Peachtree Road NE
Atlanta, Georgia 30326
Tel: (404) 504-7799
Fax: (404) 365-9532
rjd@mmlaw.com
adecinque@mmlaw.com

Certificate of Service

I hereby certify that I have this 23rd day of October, 2017, served a copy of the following documents upon all parties to this matter:

- **Motion to Dismiss or, Alternatively, for Summary Judgment**
- **Memorandum in Support of Motion to Dismiss or, Alternatively, for Summary Judgment**
- **St. Joseph's Local Rule 56.1 Statement**
- **Declaration of Stacey Brown**

I served these documents by filing a copy via CM/ECF and by mailing a copy, proper postage prepaid, to the address below:

Lakesha Smith
2609 Evergreen Ave
Savannah, GA 31404

Plaintiff

MORRIS, MANNING & MARTIN, LLP
Attorneys for St. Joseph's/Candler Health System, Inc.

s/ R. Jason D'Cruz
R. Jason D'Cruz
Georgia Bar No. 004740